

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION

JEREMY JAMES WIMBERLY

§

VS.

§

CIVIL ACTION NO. 1:14cv526

U.S. MARSHAL

§

ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Petitioner Jeremy James Wimberly, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, for consideration pursuant to applicable orders of this court.

The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends that the petition be dismissed without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court concludes that petitioner's objections are without merit. Petitioner is awaiting sentencing following a federal criminal conviction. As the Magistrate Judge stated, the proper way to challenge a federal criminal conviction is by filing a motion to vacate, set aside or correct sentence pursuant to 28 U.S.C. § 2255. Further, a motion to vacate cannot be filed until the conviction has been confirmed on direct appeal.

ORDER

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is

**ADOPTED.** A final judgment shall be entered dismissing the petition.

**SIGNED** this the **8** day of **January, 2015**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield  
United States District Judge